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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,159	04/16/2004	Daniel W. King	KING3002/JEK/JJC	7844
23364	7590	03/17/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			PETERSON, KENNETH E	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/825,159

Applicant(s)

KING, DANIEL W.

Examiner

Kenneth E Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 7,8 and 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>16 april 04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

1. Claims 7,8 and 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group or species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 03 March 05.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3,4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacko et al.'824, who shows a cutting head with all of the recited limitations including first and second pins (55,57) that are "closely adjacent" the forward edge of the cutter support.

In regards to claims 3 and 4, Jacko's figure 6 shows that the knife extends very little past the support.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6,9 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Jacko et al.'824, who shows a cutter with most of the recited limitations except the pivot

pins are not as close to the front edge as recited by Applicant, particularly in claims 2 and 9.

The courts have long held that it is not inventive to shift the location of parts of a device, so long as the operation of the device is not thereby modified and so long as there are no unexpected results. See in re Japikse, 86 USPQ 70. In this case, moving Jacko's pivot pins forward does not change the operation of the device (it still pivots the same), and the results (finer blade positioning) cannot be considered "unexpected". As anyone knows, reducing the amount of cantilever in a pivoting object will increase the amount of control one has. For example, a child who has trouble controlling a swinging baseball bat knows to choke up on it to increase his control. Thus, moving the pivot pins closer to the cutting edge would not "unexpectedly" increase control of the cutting edge. Furthermore, Examiner takes Official Notice that it is well known for positioning elements to be immediately adjacent the cutting gap. An example of this is the patent to Urschel et al.'410, who shows a centrifugal cutter similar to Jacko, with a pivoting part, with the positioning control element (62d) being very close to the cutting gap.

It would have been obvious to one of ordinary skill in the art to have modified Jacko by moving the pivot pins closer to the cutting edge, since the operation of the device would not thereby be modified, and since it creates better stability and since it is old and well known and taught by Urschel.

In regards to claims 5 and 6, Jacko has only one flange and adjustment member (56-62, figure 7). Examiner takes Official Notice that it is well known to have two flanges with two adjustment members. For example, see again the patent to Urschel et

al.'410 (62f, figure 3). It would have been obvious to one of ordinary skill in the art to have modified Jacko by having two flanges and adjustment members, as is well known and taught by Urschel, in order to double the stability of the adjustment.

In regards to claims 5 and 6, the use of an oblique angle for the adjustment member is an obvious design choice. The flange clearly moves tangentially to the pivot pin, and this tangential movement is inherently oblique to a radial ring line, and therefore the adjustment member should follow that oblique line. An example of this simple mechanical concept can be seen in figure 6 of the patent to Mitsubayashi '099. It would have been obvious to one of ordinary skill in the art to have made the adjustment member oblique to the ring radial line, as is obvious and shown by Mitsubayashi, in order to prevent the binding that would occur with a non-oblique adjustment member.

6. Made of record but not relied on are numerous patents showing centrifugal cutters with cut-thickness adjusters.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 571-272-4512, on Monday-Thursday, 7AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached at 571-272-4514. In lieu of mailing, it is encouraged that papers be faxed to 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov> or call the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 15, 2005



KENNETH E. PETERSON  
PRIMARY EXAMINER